

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,

Petitioner,

v.

BROCK AUTO PARTS AND SALES CO., INC.,

Respondent.

Case No. 11-cv-1150

PETITION TO ENFORCE INTERNAL REVENUE SERVICE SUMMONS

The United States petitions this Court for an order enforcing an Internal Revenue Service (“IRS”) administrative summons served on respondent Brock Auto Parts and Sales Co., Inc. (“Brock Auto Parts”). In support, the United States avers as follows:

1. This is a proceeding brought pursuant to the provisions of 26 U.S.C. §§ 7402(b) and 7604(a), to judicially enforce an IRS summons.
2. Taryn A. Duvall is a Revenue Agent of the IRS, with an office located at 1122 Town and Country Commons, Room 118 in Chesterfield, Missouri 63017, and is authorized to issue an Internal Revenue Service summons pursuant to 26 U.S.C. § 7602 and 26 C.F.R. § 301.7602-1.
3. Respondent, Brock Auto Parts, does business at 1907 Kienlen Ave. in Saint Louis, Missouri 63133, within the jurisdiction of this Court.
4. Revenue Agent Duvall is conducting an examination to determine the income tax liabilities of Brock Auto Parts for 2015. Roger S. Brockman is the President and sole shareholder of Brock Auto Parts. Because the respondent is a Subchapter S corporation and its income and

losses flow through to its sole shareholder, Mr. Brockman, Revenue Agent Duvall is also examining Mr. Brockman's individual Form 1040 for tax year 2015. Details of the summons are set forth in the Declaration of Revenue Agent Taryn A. Duvall attached hereto as Exhibit 1. A redacted copy of the aforementioned 2015 Form 1120S is attached as Exhibit 2.

5. Mr. Brockman, as President and sole shareholder of Brock Auto Parts, is in possession and control of books, papers, records, and other data that are relevant to the above-described investigation.

6. On October 18, 2017, Revenue Agent Duvall issued an IRS summons directing Brock Auto Parts to appear before her on November 6, 2017, at 9:00 a.m., at 1122 Town and Country Commons Dr. in Chesterfield, Missouri 63017, to produce books, papers, records, and other data as described in the summons from which the IRS could determine the costs of goods sold and purchases for Brock Auto Parts for 2015. No testimony was sought. A copy of the summons, attached hereto as Exhibit 3, was served on the respondent by Revenue Agent Duvall, which she left at Mr. Brockman's last and usual place of abode on October 25, 2017.

7. Neither Mr. Brockman nor another representative of Brock Auto Parts appeared before Revenue Agent Duvall on November 6, 2017. Rather, as described in her declaration, Revenue Agent Duvall received a letter from respondent's counsel stating the respondent's refusal to appear based upon an assertion of the Fifth Amendment right to avoid self-incrimination and a claim that the examination was not for legitimate purposes.

8. The matter was referred to the Office of Chief Counsel, Small Business/Self-Employed for enforcement. On November 14, 2017, the Office of Chief Counsel sent a letter to Brock Auto Parts, a copy of which is enclosed as Exhibit 4, requiring the respondent to appear

before Revenue Agent Duvall on December 5, 2017, and to comply with the summons or that there would be a proceeding in court to compel compliance.

9. On December 5, 2017, Brock Auto Parts again did not fully comply with the terms of the summons.

10. The books, papers, records, or other data sought by the summons are not already in possession of the IRS.

11. All administrative steps required by the Internal Revenue Code for the issuance of summons have been taken.

12. No Justice Department referral, as defined by 26 U.S.C. § 7602(d), is in effect for Brock Auto Parts for the years under investigation.

13. It is necessary to obtain and examine the books, papers, records, or other data sought by the summons in order to determine the correct business income or loss of Brock Auto Parts for 2015, as evidenced by the Declaration of Revenue Agent Duvall.

WHEREFORE, petitioner respectfully prays:

A. That the Court issue an order directing the respondent, Brock Auto Parts, to show cause, if any, why it should not comply with and obey the aforementioned summons and each and every requirement thereof;

B. That the Court enter an order directing the respondent, Brock Auto Parts, to obey the aforementioned summons and each and every requirement thereof by ordering the attendance and production of books, papers, records, or other data as is required and called for by the terms of the summons before Revenue Agent Duvall or her delegate, at such time and place as may be fixed by Revenue Agent Duvall or her delegate;

C. That the United States recovers its costs in maintaining this action; and

D. That the Court grant such other and further relief as is just and proper.

Dated: July 12, 2018

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